

**Bahrain FTA:
A Good Agreement with an Important Friend and Ally
And
A Step Forward in Promoting Labor Standards**

A Good Agreement

The U.S.-Bahrain Free Trade Agreement (FTA) is an important trade agreement for the United States and Bahrain, and will bring useful benefits to the people of both countries. Bahrain has been a steadfast friend and ally to the United States over many years, including hosting a U.S. military presence since 1949. In recent years, Bahrain has undertaken major — and often difficult — economic, social and political reforms to improve its society and the life of its people.

Most recently, Bahrain took the important step of renouncing and terminating its participation in the Arab League Boycott of Israel. Renouncing this boycott, which should never have been imposed in the first place, is a difficult and important step toward expanding the circle of economic opportunity in the Middle East and building a stable and lasting peace between Israel and its neighbors.

Overall, this trade agreement contains numerous important benefits for the people of both countries, including: substantial market access to U.S. services providers, including in financial services; immediate duty-free access for consumer and industrial products; and duty-free access for 98 percent of tariff lines for U.S. agriculture exports.

Agreement Promotes Basic Labor Standards

As in all other U.S. Free Trade Agreements (FTAs) negotiated by the Bush Administration, the text of the U.S.-Bahrain Free Trade Agreement (FTA) requires only that the two countries enforce their own labor laws.

In 2002, Bahrain completed a major revision to its own labor law to comply with internationally-recognized standards and to ensure that working people in its country share fully in the benefits of globalization. However, six provisions of Bahrain's law, as currently written, raise concerns with regard to basic international labor standards. These six provisions have been identified by the U.S. Department of State and the International Labor Organization (ILO).

As a result, the U.S. Government and the Government of Bahrain have agreed to additional commitments on labor in order to advance the adoption and application of internationally-recognized labor standards in Bahrain.

These commitments are contained in an exchange of letters between Bahrain's Finance Minister, the Honorable Ahmed bin Mohammed Al Khalifa, and U.S. Trade Representative Rob Portman, as well as in additional letters and directives issued by the Government of Bahrain. All letters and directives are attached.

As detailed below, the agreement between the Governments of the United States and Bahrain addresses the concerns about these six deficiencies that Congressman Rangel and others have raised:

- First, Finance Minister Al Khalifa has written a letter to U.S. Trade Representative Portman, in which the Government of Bahrain commits to submit to Parliament within a week proposed amendments in four of the six areas where Bahrain's laws fall short of ILO standards and commits to seek

expedited enactment. In the letter to USTR Portman and accompanying directives and letters, the Government of Bahrain also states its commitment to continue implementing these four provisions in a manner consistent with ILO standards pending formal changes to law.

- Second, in the letter to U.S. Trade Representative Portman, Finance Minister Al Khalifa commits Bahrain to submit to Parliament proposed amendments for the two remaining areas within a week, and commits to seek expedited enactment of those two remaining changes to law. It is notable that, of the two remaining provisions of law, one is an area in which Bahrain is prepared to change its law immediately; however, Bahrain must consult with its unions first to address their concerns.
- Third, the exchange of letters between U.S. Trade Representative Portman and Bahrain Finance Minister Al Khalifa expressly links Bahrain's commitments as to its existing law as well as its forthcoming changes to law to Article 15.6 of the U.S.-Bahrain FTA. In particular, the exchange of letters conveys the understanding of the two governments that Bahrain's commitments to continue to apply its laws in a WTO-compliant manner and to make all necessary changes to its laws to bring them formally into compliance with basic ILO standards constitute "matters arising under" the labor chapter of the FTA.

Article 15.6 allows a Party to initiate formal consultations with the other Party with regard to a labor issue. If consultations fail to resolve the matter, either Party may request that a "Subcommittee on Labor Affairs," comprised of officials of the Parties' labor ministries and other appropriate agencies, be convened. The Subcommittee "shall endeavor to resolve the matter expeditiously," and may consult with governmental and

non-governmental experts and have recourse to procedures such as conciliation or mediation. Linking Bahrain's commitments with regard to its labor laws to Article 15.6 is Bahrain's commitment in the text of the FTA to comply with basic ILO standards.

- Fourth, the U.S. Trade Representative has committed to report periodically to Congress on the progress — or lack thereof — of the Government of Bahrain in continuing to implement its laws in an ILO-compliant manner and make necessary changes to its laws. If there are problems with the continued application of laws, or the modifications to laws, USTR will invoke the consultative procedures under Article 15.6 to raise these matters with Bahrain, call attention to the matters, and seek their immediate successful resolution.

Conclusion

Trade agreements entered into by the United States must be judged on their own merits and in the context of the economic realities that exist between countries and in the trading partner's country. We must seek to advance the interests of U.S. businesses, workers and farmers, and to ensure that the benefits of globalization are broadly shared, including with full and fair participation in the workplace.

The U.S. - Bahrain Free Trade Agreement constitutes, in the case of Bahrain, a step forward in the adoption and enforcement of internationally-recognized basic standards for working people. We hope that further steps can be taken in future FTAs so there may be the necessary restoration of a true and broadly bipartisan approach on trade.

List of Documents

1. Letter from Bahrain Finance Minister to Portman.

This letter contains (1) Bahrain's specific descriptions of how it is currently applying its labor laws in an ILO-consistent manner (including four of the six provisions of law as to which the U.S. State Department and ILO have identified ILO-related concerns), and (2) Bahrain's further commitment to change within a short period of time all six labor laws as to which concerns have been raised.

2. Bahraini Letter to International Labor Organization.

This letter fulfills one aspect of Bahrain's commitment to eliminate the requirement that unions belong to only one national confederation by requesting the ILO's help to work with Bahrain's unions on this point. (Unions in Bahrain like the existing requirement.)

3. Ministry Directive on Reinstatement.

This directive fulfills Bahrain's commitment to make clear that under current Bahrain law, the Government of Bahrain strongly prefers — and has used, is using and will continue to use its good offices to achieve — reinstatement as the appropriate remedy for workers dismissed for union-related activities, even though formal Bahrain law does not provide this right. The directive states that Bahrain will seek to continue the application of its law in this manner until the law is formally amended.

4. Letter to Conciliation Panels regarding Penalties.

This letter fulfills Bahrain's commitment to advise labor conciliation panels of the Government's view that adequate penalties — as reflected in a new draft labor law — should be observed as necessary to adequately enforce Bahrain's labor laws. The letter further states that the Government of Bahrain recommends using these penalties until the law is formally changed.

5. Ministry Directive on Strike Requirements.

This directive fulfills Bahrain's commitment to urge continuation of current practice in Bahrain not to dismiss a worker even though the worker may have participated in a strike that does not technically meet the requirements of Bahrain law. This is meant specifically to address the formal requirement in Bahrain's law that a strike be authorized by a three-fourths vote of workers in a union. The directive further states that the government believes that the practice of not dismissing a worker on the basis of technical strike requirements should continue until Bahrain's laws have been formally changed.

6. Portman Letter to Bahrain Finance Minister.

Finally, USTR Portman has sent Bahrain's Finance Minister a letter that expressly links Bahrain's commitments as to its existing law as well as its forthcoming changes to law to Article 15.6 of the U.S.-Bahrain FTA. In particular, the exchange of letters conveys the understanding of the two governments that Bahrain's commitments to continue to apply its laws in a WTO-compliant manner and to make all necessary changes to its laws to bring them fully and formally into compliance with basic ILO standards constitute "matters arising under" the labor chapter of the FTA.

DOCUMENT #1

KINGDOM OF BAHRAIN
Ministry of Finance



مملكة البحرين
وزارة المالية
مكتب الوزير

Minister's Office

OM/326/2005

10 November, 2005

The Honorable Robert Portman
U.S. Trade Representative
600 17th Street, NW
Washington, DC 20508

Dear Ambassador Portman

I appreciate the opportunity to work with you on the U.S.-Bahrain Free Trade Agreement. In particular, I welcome your interest in our labor laws. Over the last few years, Bahrain has been engaged in a process of comprehensive and significant political and economic reforms. With respect to labor, Bahrain enacted in 2002 the Trade Unions Workers Law allowing for the first time in the Gulf the establishment of independent trade unions and recognizing strikes as a legitimate and essential means that workers may use to defend their interests. The Ministry of Labor has increased the number of inspectors; we have upgraded standards and training; and real efforts are underway to better educate workers to their rights in the workplace. The Government of Bahrain recognizes the importance of making progress on labor rights and we are in the process of amending many of our labor laws to be consistent with international standards. The General-Secretary of the International Confederation of Free Trade Unions (ICFTU) has publicly hailed Bahrain as showing the way for the region.

I am sharing this letter to provide further clarification of our labor laws and specifically the issues that have been raised during discussions with you and your staff.

Article 27 of Bahrain's Constitution allows workers the "freedom to form associations and unions." The 2002 Trade Unions Workers Law permitted the establishment and legal protection of independent labor unions. More significantly, both domestic and foreign workers (who represent over half of private sector workers) are allowed to form and join trade unions under our law. However, Bahrain's laws currently impose a limit of a single union per enterprise, which may raise questions regarding consistency with Article 2 of ILO Convention

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MINISTER'S OFFICE



87. Because of the Government of Bahrain's commitment to the freedom of association, the Ministry of Labor previously tabled with the Cabinet of the Government of Bahrain a proposal to change Bahrain's laws to eliminate this requirement. Within the next week, the Cabinet will submit to the Parliament legislation repealing the requirement and will request that the Parliament take up the proposal on an urgent basis in order to expedite passage of this important reform.

Likewise, the Government of Bahrain strongly supports abolishing the requirement that all trade unions belong to one federation so that the law will provide that trade unions may form one or more federations and choose which federation to join. Bahrain, with assistance from the International Labor Organization (ILO) will consult with unions on abolishing this provision. In fact, Bahrain has today written to the ILO to request such assistance and will progress this issue on an urgent basis with the aim that by December 31, 2005 the Cabinet will submit to the Parliament legislation repealing the requirement and will request that the Parliament take up the proposal on an urgent basis.

In addition, to ensure compliance with ILO Convention 98 on the right to organize and bargain collectively, Bahrain has already initiated a process to provide in the law for mandatory reinstatement of any worker, at his or her option, if dismissed due to trade union activities. Within the next week, the Cabinet will submit to the Parliament an amendment to our Labor Law that includes this provision and will request that the Parliament take up the proposal on an urgent basis. The Government of Bahrain has today also reaffirmed publicly its strongly-held position that reinstatement is the preferred remedy in cases of unlawful dismissal for union activity.

The Government of Bahrain also reiterates its commitment to ensuring that penalties for anti-union discrimination are adequate to deter such activity and that workers are paid wages due in a timely fashion, and that technical requirements for strikes do not exceed the standards of the International Labor Organization. The Ministry of Labor will submit to the Cabinet on an urgent basis the changes to law that are necessary to ensure that its laws comply fully with ILO standards on each of these issues, and request that the Parliament take up these proposals on an urgent basis as well. This will occur no later than December 31, 2005. Further, the Government of Bahrain will advise its labor conciliation panels to take note of

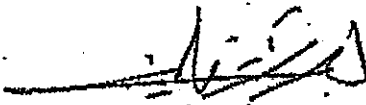
MINISTER'S OFFICE

مكتب الوزير

the new damages that have been proposed pending formal approval of legislative changes.

Finally, the Government of Bahrain also will publicly reaffirm its support for continuing the current practice in Bahrain, where workers are not dismissed following a strike, for a legitimate cause, on the grounds that the technical requirements for a strike have not been met, pending formal approval of legislative reforms establishing that only a simple majority of workers present and voting is necessary to approve a strike

Yours sincerely,



Ahmed bin Mohammed Al Khalifa
Minister of Finance

DOCUMENT #2

KINGDOM OF BAHRAIN

MINISTRY OF LABOUR

OFFICE OF THE MINISTER



مملكة البحرين
وزارة العمل
مكتب الوزير

14th November 2005

100/936/2005

Date: التاريخ:

No.: الرقم:

Mr Juan Somavia
Director General
International Labour Organization (ILO)
15, Rue Des Marillons
Geneva
SWITZERLAND

Dear Mr Somavia

Over the last few years, Bahrain has implemented comprehensive and significant political and economic reforms, and we are in the process of amending many of our labor laws to be consistent with international standards.

Because of the Government of Bahrain's commitment to the freedom of association, the Government of Bahrain strongly supports abolishing the requirement set forth in current Bahraini law that all trade unions belong to one federation. However, existing unions in Bahrain have expressed concern that eliminating this requirement would weaken labor unions. As such, the Government of Bahrain requests the immediate assistance of the International Labour Organization (ILO) in consulting with unions with regards to the importance of providing unions the rights to form and join one or more federations and that this change would promote, rather than undermine, the rights of working people in Bahrain and bring Bahrain's laws into compliance with applicable ILO standards.

We look forward to working with you to bring our laws into compliance with international standards.

Kind Regards

Dr. Majed Bin Mohsen Al Alawi
Minister of Labour

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Ministry of Labour, P.O.Box 22222, Bahrain, Tel: 17641212, Fax 17688999
E-mail: moelab@batalco.com.bh ; البريد الإلكتروني: www.bah-molab.com

DOCUMENT #3

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CHAIRMAN'S OFFICE

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KINGDOM OF BAHRAIN

MINISTRY OF LABOUR

OFFICE OF THE MINISTER



مملكة البحرين
وزارة العمل
مكتب الوزير

The General Manager
T.O.S
Bahrain News Agency
Kingdom of Bahrain

Date: 14th November

Press Announcement
For Immediate Release

I would kindly request the following announcement to be circulated to the press:

"It has been the policy of the Government of Bahrain, represented by the Bahraini Ministry of Labor, to encourage employers, through various means, to reinstate workers who are dismissed due to their trade union activity. The Government of Bahrain has consistently informed employers, that reinstatement is clearly the preferred outcome in all instances of this kind. The Ministry has used its good offices and powers to the fullest extent possible to advance this policy goal.

To further clarify the policy of the Government of Bahrain, the Ministry of Labor reaffirms its longstanding policy that reinstatement is the clearly preferred remedy in cases of unlawful dismissal for union activity. This policy will remain in effect until formal changes to law are enacted. The Ministry of Labor will continue its collaborative effort with employers to ensure the broad and consistent application of this policy. Of course, this effort will include entities that employ foreign workers."

I am grateful for your continued cooperation with the Ministry of Labor.

Yours sincerely,

Dr. Majed Al Alawi
Minister of Labor

DOCUMENT #4

Letter to the Director of the Labor Complaints and Conflicts Department from the
Undersecretary of Labor

November 15, 2005

As you know, Bahrain has engaged in a process of comprehensive and significant political and economic reforms over the last few years. As part of this reform effort, the Government of Bahrain recognizes the importance of making progress on labor rights, and we are in the process of making some amendments to our labor laws to be consistent with international standards.

Because of the Government of Bahrain's commitment to the freedom of association and the lack of specific damages in Bahrain's existing laws regarding anti-union discrimination, the Government of Bahrain has proposed new legislation setting forth specific penalties as civil damages to be imposed for anti-union discrimination and damages for delay in payment of wages. The legislation provides that discrimination against workers for anti-union discrimination is punishable by having the employer pay the worker damages that are approximately two months to six months of the worker's total wage. The legislation provides that delay in payment of wages to a worker makes the employer liable to pay the worker damages on an incremental scale that varies from 6-12 percent yearly from the delayed wages.

The damages set forth above are necessary to adequately enforce Bahrain's existing laws prohibiting discrimination against workers engaged in union activity and to ensure prompt payment of wages owed to workers. I hope that these new penalties will be noted and observed by conciliation panels pending formal approval of the new law.

DOCUMENT #5

KINGDOM OF BAHRAIN
MINISTRY OF LABOUR
OFFICE OF THE MINISTER



مملكة البحرين
وزارة العمل
مكتب الوزير

The General Manager
T...
Bahrain News Agency
Kingdom of Bahrain

Date: 14th November

Press Announcement
For Immediate Release

I would kindly request the following announcement to be circulated to the press:

"It is widely known that Bahrain has been engaged in a process of comprehensive and significant political and economic reforms over the last few years. With respect to labor laws, Bahrain enacted in 2002 the Trade Unions Workers Law allowing for the first time in the Gulf the establishment of independent trade unions and recognizing strikes as a legitimate and essential means that workers may use to advance and defend their rights and interests.

In the three years since the enactment of the Trade Union Workers Law, no worker has been dismissed following a strike concerning any issue directly or indirectly related to employment, even in cases where the technical requirements for a strike have not been met. In light of the Government of Bahrain's commitment to the freedom of association and right to organize, the Government of Bahrain believes this practice should continue pending implementation of formal changes to law to be consistent with International Labor Organization standards. This practice is consistent with international standards and we believe will further strengthen Bahrain's economy."

I am grateful for your continued cooperation with the Ministry of Labor.

Yours sincerely,

Dr. Majed Al Alawi
Minister of Labor

DOCUMENT #6

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

H.E. Sheikh Ahmed bin Mohammed Al Khalifa
Minister of Finance
Ministry of Finance
P.O. Box 333
Manama
Kingdom of Bahrain

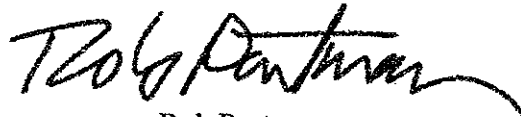
NOV 16 2005

Dear Sheikh Ahmed:

As you know, in connection with the entry into force of the United States-Bahrain Free Trade Agreement, the Kingdom of Bahrain has committed in writing to make needed changes to its labor laws and has clarified key aspects of its current labor measures. I have enclosed copies of Bahrain's commitment and clarification letters.

It is important that Bahrain carry through on its pledges to reform its labor laws and adhere to the clarifications it has issued regarding the operation of its existing labor measures, as detailed in the enclosed letters. Accordingly, this is to confirm our understanding that, in light of the collaboration that characterizes relations between our two countries, the commitments set forth in your letter of November 10, 2005 constitute "a matter arising under [the Chapter on Labor]" pursuant to Article 15.6 of the U.S.-Bahrain Free Trade Agreement. In light of its strong interest in this matter, I intend to update the U.S. Congress periodically on the progress that Bahrain has achieved in realizing the commitments to its labor law reform described in your letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Portman", with a stylized flourish at the end.

Rob Portman